IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 15044 of 2007(N)

PETITIONER:
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1. THILAKARAJ, SON OF KUMARAN,
RESIDING AT KUTTIYANJILIKKAL, CHANDIROOR MURI,
CHANDIROOR P.O.

2. KUMARAN, SON OF KUNJAN,
RESIDING AT KUTTIYANJILIKKAL, CHANDIROOR MURI,
CHANDIROOR P.O.

BY ADV. SRI.MATHEWS K.UTHUPPACHAN
SRI.TERRY V.JAMES

RESPONDENTS:
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1. THE CIRCLE INSPECTOR OF POLICE,
KUTHIYATHODU.

2. THE SUB INSPECTOR OF POLICE,
AROOR.

3. MUHAMMED, SON OF PAREED,
MANGALATHUVELIYIL, CHANDIROOR MURI,
CHANDIROOR P.O.

4. NIZAMUDDIN, SON OF PAREED,
MANGALATHUVELIYIL, CHANDIROOR MURI,
CHANDIROOR P.O.

5. ASHRAF, SON OF PAREED,
MANGALATHUVELIYIL, CHANDIROOR MURI,
CHANDIROOR P.O.

6. SUBAIR, SON OF PAREED,
MANGALATHUVELIYIL, CHANDIROOR MURI,
CHANDIROOR P.O.

BY ADV. SRI.LIJU. M.P
SRI.R.RAMESH
GOVERNMENT PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 15044/2007 N

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT DT. 14/3/07 IN OS NO. 681/2003 BY THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA.

EXT.P2. COPY OF THE JUDGMENT DT. 17/3/07 IN OS NO. 730/03 BY THE COURT OF THE ADDITIONAL MUNSIFF, CHERTHALA.

EXT.P3. COPY OF THE FIRST INFORMATION REPORT DT. 17/3/07 OF THE ASST. POLICE SUB INSPECTOR, AROOR POLICE STATION IN CRIME NO. 92/07.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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K. BALAKRISHNAN NAIR & HARUN-UL-RASHID,JJ

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W.P.(C). NO. 15044 OF 2007

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Dated this the 23rd day of August, 2007.

JUDGMENT

Balakrishnan Nair,J

The petitioners have approached this Court seeking the following relief:

> i. Direct the 1st and 2nd respondents by issue of a writ of mandamus or such other appropriate writ, order or direction to afford adequate and effective police protection for the 1st petitioner for constructing a house in his property and also carrying goods and personnel for that purpose.

2. The first petitioner is a police man and the 2nd petitioner is his father. It appears that the respondents 3 to 6 claimed a right of way through the property in which the petitioners are constructing their residential building. The suit filed by the said respondents was dismissed. Now it is pointed out that the restoration application filed by them is pending before the concerned Court. The first petitioner has already obtained Ext.P2 judgment injuncting the defendant therein, who is the 3rd respondent herein, against encroaching into his property. But, in violation of the said judgment and decree, it is submitted, the party-respondents demolished their compound wall. Upon information lodged by them, a crime has been registered

against them under Sections 447, 427, 294(b) and 506(ii) r/w Section 34 of the I.P.C. The only prayer now pressed by the petitioners is for police protection to complete the construction of their residential building. The learned counsel for the petitioners also points out that the construction of the building will not affect the claim of the party-respondents for the right of way through the property. We heard the learned Government Pleader and also the learned counsel for the party-respondents. The dispute regarding the right of way or violation of the injunction etc. are matters to be adjudicated before the Civil Court. If there is any physical obstruction caused to the petitioners in making construction of the residential building, they may move the police for help. The police will look into the same and take appropriate action, subject to the orders, if any, passed by the competent Civil Court.

The writ petition is disposed of as above.

K. BALAKRISHNAN NAIR, JUDGE.

HARUN-UL-RASHID,JUDGE.

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